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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

SHANNON ROBINSON, DANTE
HARRELL,

Plaintiffs,

v.
CITY OF SAN DIEGO, CHIEF OF
POLICE WILLIAM LANDSDOWNE,
Officer D. McClain #6013, individually
and as a peace officer, Officer A.
SAVAGE #6059, individually and as a
peace officer, Officer SACCO #6514,
individually and as a peace officer,
Officer DOBBS #5228, individually and
as a peace officer, Officer DODD #5229,
individually and as a peace officer, and
DOES 1-50, inclusive.

Defendants.

No. '11CV0876 AJB WVG

COMPLAINT FOR DAMAGES

1. Violation of Civil Rights
(42 U.S.C. §1983)
2. *Monell Claim*
(42 U.S.C. §1983)
3. Violation of 42 U.S.C.
§1985(2)
4. Violation of 42 U.S.C.
§1985(3)
4. Assault and Battery
5. False Arrest/Imprisonment
6. Conspiracy
7. Torts in Essence
8. Intentional Infliction of
Emotional Distress
9. Negligence
10. Negligent
Employment/Supervision
12. Cal. Civil Code §51.7, 52.1

DEMAND FOR JURY TRIAL

JURISDICTION

Jurisdiction of this court is invoked under 28 U.S.C. §§ 1343, (1), (2), (3)
and (4). This action at law for money damages arises under Title 42 U.S.C.
§Section 1983 and §1985, and the United States Constitution, the laws of the

1 State of California and common law principles to redress a deprivation under
2 color of state law of rights, privileges and immunities secured to Plaintiffs by
3 said statutes, and by the First, Fourth, and Fourteenth Amendments of the United
4 States Constitution.

5 **ALLEGATIONS COMMON TO ALL CAUSES OF ACTION**

6 1. At all times herein mentioned, Plaintiffs SHANNON ROBINSON and
7 DANTE HARRELL, were residents of the County of San Diego, California.

8 2. At all times herein mentioned, Defendants officers MCCLAIN,
9 VALDEZ, SACCO, SAVAGE, DODD, DOBBS, and HERNANDEZ, individually
10 and as peace officers and DOES 1-50 were and are employees of the City of San
11 Diego and the San Diego Police Department.

12 3. Defendant CITY OF SAN DIEGO, (hereinafter referred to as "CITY")
13 is and at all times herein mentioned has been a public entity and an incorporated
14 county duly authorized and existing as such in and under the laws of the State of
15 California; and at all times herein mentioned, Defendant CITY has possessed the
16 power and authority to adopt policies and prescribe rules, regulations and practices
17 affecting the operation of the San Diego Police Department, and particularly said
18 Department's Patrol, Internal Investigations and Training and Personnel Divisions
19 and other operations and subdivisions presently unidentified to Plaintiff, and their
20 tactics, methods, practices, customs and usages.

21 4. Defendant WILLIAM LANDSDOWNE was the Chief of Police of
22 Defendant CITY OF SAN DIEGO, and agent of Defendant CITY OF SAN DIEGO.
23 Plaintiffs are informed and believe and based upon that allege that Defendant
24 LANDSDOWNE is responsible for implementing, maintaining, sanctioning, or
25 condoning policies, practices, and customs, under which the other Defendants
26 committed illegal or wrongful acts that are complained of in this lawsuit. By reason
27 of these policies, practices, and customs, Defendant LANDSDOWNE is liable for
28 the damages that resulted.

1 5. Plaintiffs are informed and believe and thereon allege that each of the
2 Defendants designated as a DOE is intentionally responsible in some manner for the
3 events and happenings herein referred to, and thereby proximately caused injuries
4 and damages as herein alleged. The true names and capacities of DOES 1 through
5 50, inclusive, and each of them, are not now known to Plaintiff who therefore sues
6 said Defendants by such fictitious names and will be added to this action as
7 provided by California Code of Civil Procedure Section 484.

8 6. Defendants, and each of them, did the acts and omissions hereinafter
9 alleged in bad faith and with knowledge that their conduct violated well established
10 and settled law.

11 7. The incidents complained of began in the City of San Diego, near or
12 at 3500 University Avenue on March 30, 2010 when SAVAGE asked MCCLAIN
13 to run the license plate of the automobile of an African American couple in a
14 Pontiac Sunfire. They were in an area of San Diego populated primarily by
15 minorities, and considered a "high crime" area. MCCLAIN ran the plate, and it
16 came back to a Honda. MCCLAIN and SAVAGE followed the Plaintiffs for several
17 blocks before putting on his overhead lights and pulling them over. MCCLAIN
18 radioed the license plate number of the Sunfire to dispatch to alert them that they
19 had stopped the Sunfire. Dispatch radioed back that the plate belonged to a Sunfire.
20 MCCLAIN had initially provided the wrong license plate number to dispatch.

21 SAVAGE approached the stopped vehicle occupied by plaintiffs and
22 a passenger. Before SAVAGE reached plaintiffs, MCCLAIN alerted him that the
23 stop was a mistake. SAVAGE approached the plaintiffs anyway, demanded they
24 roll down their windows, and demanded the driver, Plaintiff DANTE HARRELL,
25 produce his driver's license and registration.

26 HARRELL asked SAVAGE why he had been stopped, and why he
27 was demanding his driver's license and registration. SAVAGE refused to respond.

28 ///

1 SAVAGE told MCCLAIN to get identification from the passenger, Plaintiff
2 SHANNON ROBINSON. HARRELL recording the incident on his cell phone.
3 ROBINSON was in the process of calling 911 on her cell phone to report the
4 unlawful stop and ensuing harassment. MCCLAIN ordered ROBINSON to produce
5 her identification. ROBINSON declined and told MCCLAIN she was talking to his
6 supervisor. MCCLAIN ordered ROBINSON to exit the vehicle. ROBINSON
7 declined. MCCLAIN reached into the open window and grabbed ROBINSON and
8 told ROBINSON she was under arrest. HARRELL reached over ROBINSON and
9 put his hand on the door lock so that MCCLAIN could not open the door.
10 MCCLAIN ripped HARRELL's hand off the door lock. HARRELL grabbed
11 ROBINSON to protect her. MCCLAIN made an emergency radio call asking for
12 backup.

13 Savage began attacking grabbing at HARRELL who was still holding
14 ROBINSON. MCCLAIN pepper sprayed HARRELL in the face. MCCLAIN also
15 sprayed ROBINSON. SAVAGE then pepper sprayed ROBINSON in the face.
16 MCCLAIN radioed for "urgent cover."

17 SACCO arrived. SACCO and SAVAGE tried to pull HARRELL out
18 of his car. HARRELL leaned over to try to stop MCCLAIN from dragging
19 ROBINSON out of the car. HERNANDEZ arrived and went to the passenger side
20 of the car where ROBINSON was still seated. HERNANDEZ and MCCLAIN
21 yelled at ROBINSON "Get out of the car." MCCLAIN yanked ROBINSON out of
22 the car and ordered her to get on the ground repeatedly. ROBINSON refused.
23 MCCLAIN threw ROBINSON to the ground and HERNANDEZ put ROBINSON
24 in handcuffs. Meanwhile, SACCO began tasing HARRELL. Then SAVAGE
25 tasered HARRELL.

26 Defendants DOBBS and DODD were tasked with identifying witnesses at the
27 scene and collecting eyewitness statements. DOBBS and DODD found witnesses
28 favorable to Plaintiffs, but declined to take their statements or obtain their name,

1 address and telephone numbers for future reference, thereby causing the destruction
2 of exculpatory.

3 HERNANDEZ handcuffed ROBINSON. HARRELL was also handcuffed.
4 Both were arrested and taken to the station for booking. 5

5 8. In an effort to conceal this unlawful conduct, MCCLAIN, VALDEZ,
6 SACCO, SAVAGE, SACCO, DODD, DOBBS, and HERNANDEZ fabricated a
7 crime and arrest report in they falsely reported Plaintiffs had violated Penal Code
8 section 148 and named police officers as the alleged victim of the 148 violation.

9 9. Upon being informed of Plaintiffs accusations against Defendants and
10 DOES 1-50, an administrative investigation was commenced which exonerated
11 MCCLAIN, VALDEZ, SACCO, SAVAGE, SACCO, DODD, DOBBS, and
12 HERNANDEZ, and DOES 1-50 from all wrongdoing notwithstanding the fact that
13 the investigation disclosed MCCLAIN, VALDEZ, SACCO, SAVAGE, SACCO,
14 DODD, DOBBS, and HERNANDEZ, and DOES 1-50 had violated the law,
15 department policy and the plaintiffs constitutional rights.

16 **FIRST CAUSE OF ACTION**

17 **(42 U.S.C. § 1983 VIOLATION OF CIVIL RIGHTS - EXCESSIVE**
18 **FORCE, FALSE ARREST, AND CONSPIRACY TO DEPRIVE CIVIL**
19 **RIGHTS)**

20 **(By Plaintiffs Against All Individual Defendants)**

21 10. Plaintiffs refer to and replead each and every allegation contained in
22 paragraphs 1 through 9 of this complaint, and by this reference incorporates the
23 same herein and makes each a part hereof.

24 11. This action at law for money damages arises under Title 42 U.S.C. §
25 1983 and the United States Constitution, the laws of the State of California and
26 common law principles to redress a deprivation under color of state law of rights,
27 privileges and immunities secured to Plaintiffs by said statutes, and by the First,
28 Fourth, and Fourteenth Amendments of the United States Constitution.

1 12. Commencing at or about the aforementioned dates and places, without
2 cause or justification, and acting under color of law, the individual defendants and
3 DOES 1-50, and each of them, intentionally and maliciously deprived Plaintiff of
4 rights secured to him by the First, Fourth, and Fourteenth Amendments to the
5 United States Constitution. Defendants subjected plaintiff to excessive and
6 unreasonable force and to an unlawful arrest and booking, conspired together to
7 justify the unlawful uses of force, illegal detentions and arrest of the plaintiff and
8 thereby deprive plaintiff of rights secured to him by the federal constitution.

9 13. Defendants, and each of them, carried out and perpetrated the mutually
10 supportive conspiracy to deprive Plaintiff of his rights against unreasonable
11 searches and seizures, due process, by participating in a corrupt effort to conceal
12 the violation of plaintiff's rights with manufactured facts supported by defendants.

13 14. As a proximate result of the aforesaid acts and omissions of
14 Defendants, and each of them, Plaintiff sustained great physical and mental pain and
15 shock to his nervous systems, fear, anxiety, torment, degradation and emotional
16 distress.

17 15. By reason of the aforementioned acts and omissions of Defendants, and
18 each of them, Plaintiff incurred medical and therapeutic expenses in an amount as
19 proved.

20 16. In addition, by reason of the aforementioned acts and omissions of
21 Defendants, and each of them, Plaintiff was kept from attending to his usual
22 occupation, and have suffered loss and impairment of earnings and employment
23 opportunities all to their damage in an amount as proved.

24 17. By reason of the aforementioned acts of Defendants, and each of them,
25 Plaintiff was compelled to secure the services of an attorney at law to redress the
26 wrongs hereinbefore mentioned and by virtue thereof, Plaintiff is indebted and
27 liable for attorneys fees.

28 18. The aforementioned acts and omissions of Defendants were committed

1 by each of them knowingly, wilfully and maliciously, with the intent to harm, injure,
2 vex, harass and oppress Plaintiffs with a conscious disregard of Plaintiffs
3 constitutional rights and by reason thereof, Plaintiffs seek punitive and exemplary
4 damages from Defendants, and each of them, (except Defendant CITY) in an
5 amount as proved.

6 **SECOND CAUSE OF ACTION**

7 **(UNLAWFUL CUSTOM AND PRACTICE UNDER SECTION 1983)**

8 **(By Plaintiffs Against Defendant City and Landsdowne)**

9 19. Plaintiffs refer to and replead each and every allegation contained in
10 paragraphs 1 through 18 of this complaint, and by this reference incorporates the
11 same herein and makes each a part hereof.

12 20. Defendant CITY is and at all times herein mentioned has been a public
13 entity and an incorporated municipality duly authorized and existing as such in and
14 under the laws of the State of California; and at all times herein mentioned,
15 Defendant CITY is possessed of the power and authority to adopt policies and
16 prescribe rules, regulations and practices affecting the operation of the San Diego
17 Police Department and its tactics, methods, practices, customs and usages related
18 to internal investigations, personnel supervision and records maintenance, and the
19 proper uses of force by its rank and file, generally.

20 21. At all times herein mentioned, Defendants MCCLAIN, VALDEZ,
21 SACCO, SAVAGE, SACCO, DODD, DOBBS, and HERNANDEZ and DOES 1-
22 50, and each of them, were employees of the City of San Diego and San Diego
23 Police Department acting under the CITY'S and CHIEF LANDSDOWNE'S
24 direction and control, knowingly and intentionally promulgated, maintained,
25 applied, enforced and suffered the continuation of policies, customs, practices and
26 usages in violation of the First, Fourth, and Fourteenth Amendments respectively
27 to the United States Constitution, which customs, policies, practices and usages at
28 all times herein mentioned encouraged (1) the employment, deployment and

1 retention of persons as peace officers who have a propensity for brutality,
2 dishonesty, bigotry, and numerous other serious abuses of their duties as peace
3 officers in the employment of the CITY.

4 22. Defendant CITY knowingly maintains and permits official *sub-rosa*
5 policies or customs of permitting the occurrence of the kinds of wrongs set forth
6 above, by deliberate indifference to widespread police abuses, failing and refusing
7 to fairly and impartially investigate, discipline or prosecute peace officers who
8 commit acts of felonious dishonesty and crimes of violence, each ratified and
9 approved by the CITY.

10 23. The unconstitutional policies, practices or customs promulgated,
11 sanctioned or tolerated by defendant CITY include, but are not limited to:

12 (1) Defendant CITY had knowledge, prior to and since this
13 incident, of repeated allegations of abuse and assaultive misconduct toward
14 detainees and arrestees; Specifically, CITY knew MCCLAIN, VALDEZ, SACCO,
15 SAVAGE, DODD, DOBBS, and HERNANDEZ, and other officers had committed
16 numerous violations of the law under color of law and demonstrated Defendants'
17 unfitness for employment as peace officers but refused to protect public safety and
18 that of the Plaintiffs by failing to discharge and prosecute Defendant's and DOES
19 1-50. CITY knew SAN DIEGO PD officers including MCCLAIN, VALDEZ,
20 SACCO, SAVAGE, DODD, DOBBS, and HERNANDEZ, , DOES 1-50 and others
21 had in the past and since Plaintiffs' incident, committed similar acts of official
22 dishonesty, corruption and abuse of persons similarly situated to the plaintiffs;

23 (2) Defendant CITY had knowledge, prior to and since this
24 incident, of similar allegations of abuse and dishonesty by Defendants, and refused
25 to enforce established administrative procedures to insure the safety of detainees
26 and arrestees;

27 (3) Defendant CITY refused to adequately discipline individual
28 officers and employees found to have committed similar acts of abuse and

1 misconduct;

2 (4) Defendant CITY refused to competently and impartially
3 investigate allegations of abuse and misconduct alleged to have been committed by
4 Chula Vista Police Department officers;

5 (5) Defendant CITY reprimanded, threatened, intimidated,
6 demoted and fired officers who reported acts of abuse by other officers;

7 (6) Defendant CITY covered up acts of misconduct and abuse
8 by CHULA VISTA Police Department officers and sanctioned a code of silence by
9 and among officers;

10 (7) Defendant CITY knew of and sanctioned the custom and
11 practice of falsely arresting, booking and charging victims of officer physical abuse
12 with violations of California Penal Code Sections 69, 243, 245, 148 , 415 and
13 647(f).

14 (8) Defendant CITY failed to adequately train and educate
15 officers in the use of reasonable and proper force and failed to enforce the
16 department's written regulations with respect to uses of force;

17 (9) Defendant CITY failed to adequately supervise the
18 actions of officers under their control and guidance;

19 (10) Defendant CITY condoned and participated in the
20 practice of prosecuting groundless criminal charges for the purpose of insulating the
21 CITY of CHULA VISTA and its officers from civil liability and reducing or
22 dismissing criminal charges against individuals in return for releasing them from
23 civil liability;

24 (11) Defendant CITY condones and encourages a conspiracy of
25 silence among its employees for the purpose of concealing and furthering wrongful
26 and illegal conduct by its employees;

27 (12) Defendant CITY engages in the custom and practice of
28 refusing to provide public prosecutors and criminal defendants exculpatory and

1 impeaching evidence as required by law.

2 (13) Defendant CITY fostered and encouraged an atmosphere of
3 lawlessness, abuse and misconduct, which by October 16, 2008 and thereafter,
4 represented the unconstitutional policies, practices and customs of the CITY and
5 San Diego Police Department.

6 24. By reason of the aforesaid policies, customs, practices and usages,
7 plaintiffs First, Fourth, and Fourteenth Amendments to the United States
8 Constitution were violated.

9 **THIRD CAUSE OF ACTION**

10 **ASSAULT AND BATTERY**

11 **(By Plaintiffs against Defendants CITY, MCCLAIN, VALDEZ, SACCO,**
12 **SAVAGE, SACCO, DODD, DOBBS, and HERNANDEZ, and DOES 1-50)**

13 25. Plaintiffs refer to and replead each and every allegation contained in
14 paragraphs 1 through 24 of this complaint, and by this reference incorporates the
15 same herein and makes each a part hereof.

16 26. On or about October 4, 2010 Plaintiffs timely filed a Claim with
17 Defendant CITY pursuant to California Government Code §910. Said Claim
18 was denied October 27, 2010. .

19 27. At the aforementioned date, time and place, Defendants CITY,
20 MCCLAIN, VALDEZ, SACCO, SAVAGE, SACCO, DODD, DOBBS,
21 HERNANDEZ, and DOES 1-50 and each of them, assaulted and battered
22 Plaintiff SHANNON ROBINSON .

23 28. At the aforementioned date, time and place, Defendants CITY,
24 MCCLAIN, VALDEZ, SACCO, SAVAGE, SACCO, DODD, DOBBS,
25 HERNANDEZ, and DOES 1-50 and each of them, assaulted and battered
26 Plaintiff DANTE HARRELL.

27 29 By reason of the acts aforesaid, both plaintiffs were placed in great
28 fear for their safety and physical and emotional well being.

1 30. As a direct and proximate result of the foregoing, Plaintiffs have
2 been damaged as recited above and demands and is entitled to the damages
3 recited in the First Cause of Action, including, but not limited to, general and
4 punitive damages (except as to Defendant CITY).

5 **FOURTH CAUSE OF ACTION**

6 **(FALSE ARREST)**

7 **(By Plaintiffs Against Defendants CITY, MCCLAIN, VALDEZ, SACCO,**
8 **SAVAGE, SACCO, DODD, DOBBS, and HERNANDEZ, and DOES 1-50)**

9 31. Plaintiff refers to and repleads each and every allegation contained in
10 paragraphs 1 through 30 this complaint, and by this reference incorporates the same
11 herein and makes each a part hereof.

12 32. On or about March 30, 2010 in the City of San Diego, California,
13 Plaintiffs were caused to be unlawfully seized and arrested by Defendants, and each
14 of them, maliciously and without warrant or order of commitment or any other legal
15 authority of any kind as plaintiff had not committed any crime or public offense.

16 33. As a proximate result of the acts of defendants, and all of them, Plaintiffs
17 suffered damages, loss and harm.

18 34. As a direct and proximate result of the foregoing, Plaintiffs have been
19 damaged as recited above and demands and is entitled to the damages recited in the
20 First Cause of Action, including, but not limited to, general and punitive damages
21 (except as to Defendant CITY).

22 **FIFTH CAUSE OF ACTION**

23 **CIVIL CONSPIRACY**

24 **(By Plaintiffs Against All Defendants)**

25 35. Plaintiffs refer to and replead each and every allegation contained in
26 paragraphs 1 through 34 of this complaint, and by this reference incorporates the
27 same herein and makes each a part hereof.

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36. Commencing on or about the aforementioned date and time, and thereafter, Defendants, and each of them, combined and agreed to physically assault, falsely arrest, falsely imprison, falsely book, intentionally injure and intentionally cause extreme emotional suffering. Defendants carried out and perpetrated the mutually supportive agreement to deprive Plaintiffs of rights secured to them under the federal and California constitutions and laws of the State of California, to be free from unreasonable searches and seizures, unjustified force, false arrest, criminal records and unjustified mental suffering.

37. In furtherance of the aforesaid agreement and combination, defendants CITY, MCCLAIN, VALDEZ, SACCO, SAVAGE, SACCO, DODD, DOBBS, and HERNANDEZ, and DOES 1-50 physically assaulted, injured, falsely arrested plaintiffs, provided false evidence against Plaintiffs to the San Diego City Attorney, including a fabricated story to give the appearance of lawful behavior by defendants and DOES 1-50 and unlawful conduct by Plaintiffs.

38. Defendants' felonious and unconstitutional acts and omissions as hereinbefore alleged proximately caused Plaintiffs to be damaged.

39. As a direct and proximate result of the foregoing, Plaintiffs have been damaged as recited above and demands and is entitled to the damages recited in the First Cause of Action, including, but not limited to, general and punitive damages (except as to Defendant CITY).

SIXTH CAUSE OF ACTION

TORTS IN ESSENCE (By Plaintiffs Against All Defendants)

40. Plaintiffs refer to and replead each and every allegation contained in paragraphs 1 through 39 of this complaint, and by this reference incorporates the same herein and makes each a part hereof.

41. Defendants and each of them, owed to Plaintiffs non-consensual duties set forth in California Penal Code Sections 118.1 (false police report by peace officer), 148.5 (false report of a crime to law enforcement), 134 (preparing false

evidence), 132 (offering false evidence), 127 (subornation of perjury), 137 (induce false testimony), 147 (willful oppression and inhumanity to a prisoner), 149 (felonious excessive force by a peace officer); 182(1) (conspiracy to commit crime), 182(2) (conspiracy to obstruct justice), 240 (assault), and 242 (battery), 832.5, (citizen complaint investigations required); 4024 (prompt release from custody) and Government Code § 1031(d) (background investigations required.)

42. Defendants, and each of them, failed to abide by said non-consensual duties in that Defendants, and each of them, violated the aforesaid Penal Code sections.

43. As a direct and proximate result of the foregoing, Plaintiffs have been damaged as recited above and demands and are entitled to the damages recited in the First Cause of Action, including, but not limited to, general and punitive damages (except as to Defendant CITY).

SEVENTH CAUSE OF ACTION

INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

(By Plaintiffs Against All Defendants)

44. Plaintiff refers to and repleads each and every allegation contained in paragraphs 1 through 43 of this complaint, and by this reference incorporates the same herein and makes each a part hereof.

45. On or about March 30, 2010 and thereafter, Plaintiffs were entitled to the duty of due care by Defendants, and each of them, including but not limited to, care, service and protection.

46. On or about said date, and thereafter, Defendants and each of them, unlawfully and illegally assaulted, arrested, illegally arrested and booked Plaintiffs in reckless disregard for the natural consequences of their actions and the harm their behavior would cause.

47. In doing the aforementioned, Defendants' conduct was intentional, outrageous, malicious, and done for the purpose of or with reckless disregard for the

1 consequences, causing Plaintiffs to suffer emotional suffering and mental distress,
2 physical pain, fear, anxiety, and mental anguish.

3 48. As a direct and proximate result of the foregoing, Plaintiffs have
4 suffered, and continue to suffer, mental and emotional distress and is entitled to and
5 demands damages against Defendants jointly and severally, as recited in the First
6 Cause of Action, including, but not limited to general and punitive damages (except
7 as to Defendant CITY).

8 **EIGHTH CAUSE OF ACTION**

9 **NEGLIGENCE**

10 **(By Plaintiffs Against All Defendants)**

11 49. Plaintiffs refer to and replead each and every allegation contained in
12 paragraphs 1 through 48 of this complaint, and by this reference incorporates the
13 same herein and makes each a part hereof.

14 50. On or about March 30, 2010 and thereafter, plaintiffs were entitled to
15 the duty of due care by Defendants and each of them.

16 51. On or about said date, Defendants, and each of them, breached the
17 duty of due care owed to plaintiffs in that defendants negligently subjected plaintiffs
18 to injury harm and damage.

19 52. In doing the aforementioned acts, defendants' breach of duty was
20 negligent, and caused plaintiffs to suffer emotional and mental distress, fear,
21 anxiety, and mental anguish.

22 53. As a direct and proximate result of the foregoing, plaintiffs have
23 suffered, and continue to suffer, mental and emotional distress and is entitled to and
24 demands damages against defendants jointly and severally, as recited in the First
25 Cause of Action, including, but not limited to general damages.

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NINTH CAUSE OF ACTION

NEGLIGENT EMPLOYMENT/RETENTION/SUPERVISION

(By Plaintiffs Against Defendant CITY and LANDSDOWNE)

54. Plaintiffs refer to and repleads each and every allegation contained in paragraphs 1 through 53 of this complaint, and by this reference incorporates the same herein and makes each a part hereof.

55. On or about March 30, 2010 and for at least seven years prior thereto, Defendant LANDSDOWNE, as an executive officer and later as CHIEF OF POLICE, knew or in the exercise of due care should have known, that Defendants MCCLAIN, VALDEZ, SACCO, SAVAGE, SACCO, DODD, DOBBS, and HERNANDEZ and DOES 1-50, and each of them, had a propensity, character trait, and practice, while purporting to act under color of law, for bigotry and/or violence, and/or dishonesty and/or prevarication.

56. At all times mentioned herein, Defendant LANDSDOWNE, knew or in the exercise of due care should have known, that the afore described traits of character, practices and propensities of Defendants, and each of them, made them unfit to serve as peace officers and were likely to cause harm and injury to members of the public, including plaintiffs.

57. Notwithstanding such knowledge, Defendant LANDSDOWNE negligently, carelessly and recklessly, hired, employed, retained and failed to properly supervise, train and control Defendants MCCLAIN, VALDEZ, SACCO, SAVAGE, DODD, DOBBS, HERNANDEZ and DOES 1-50, and each of them, inclusive, as peace officers and assigned said Defendants to duties which enabled each of them to make violate the law and SDPD written policies, including but not limited to making illegal arrests, fabricating probable cause and crimes, maliciously prosecuting innocent persons, using excessive force and covering up repeated acts of police misconduct and crimes, all while purporting to act under the color of law.

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1 58. As a direct and proximate result of the foregoing, Plaintiffs have been
2 damaged as recited above and demands and is entitled to the damages recited in the
3 First Cause of Action, including, but not limited to, general and special damages.

4 **TENTH CAUSE OF ACTION**

5 **VIOLATIONS OF CALIFORNIA CIVIL RIGHTS ACT**

6 **(By Plaintiffs Against All Defendants)**

7 59. Plaintiffs refer to and replead each and every allegation contained in
8 paragraphs 1 through 58 of this complaint, and by this reference incorporates the
9 same herein and makes each a part hereof.

10 60. On or about the above stated dates, and sometime prior thereto,
11 Defendants and each of them violated Plaintiffs' civil rights, guaranteed by the
12 United States Constitution, federal law, the California Constitution and the laws of
13 the State of California thereby violating California Civil Code Section 52.1(a)(b)
14 and 51.7.

15 61. As a proximate result of the aforementioned acts of Defendants, and
16 each of them, Plaintiffs suffered damage in a sum according to proof, and is entitled
17 to the damages, statutory damages, treble damages, attorney's fees and costs
18 provided for by Civil Code sections 52 and 52.1.

19 **PRAYER**

20 WHEREFORE, Plaintiffs pray judgment against Defendants and
21 each of them, as follows:

22 **AS TO EACH CAUSE OF ACTION AS APPLICABLE**

- 23 1. For General damages according to proof;
- 24 2. For Special damages according to proof;
- 25 3. For Punitive damages as provided by law, in an amount to be
26 proved against each individual Defendant;
- 27 4. For attorney's fees pursuant to 42 U.S.C § 1988 and California Civil
28 Code §§52, and 52.1;

6. For such other and further relief as the Court may deem proper.

MARY FRANCES PREVOST
LAW OFFICES OF MARY F. PREVOST

17

PLAINTIFFS JURY DEMAND

Plaintiffs hereby demands a trial by jury.

DATED: April 25, 2011

LAW OFFICES OF MARY F. PREVOST

/s/MARY FRANCES PREVOST
By: Mary Frances Prevost
Attorneys for Plaintiffs

JS 44 (Rev. 12/07)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS
SHANNON ROBINSON, DANTE HARRELL

DEFENDANTS
CITY OF SAN DIEGO, et al.

(b) County of Residence of First Listed Plaintiff San Diego
(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant San Diego
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

(c) Attorney's (Firm Name, Address, and Telephone Number)
Law Offices of Mary Frances Prevost
402 W. Broadway, Ste. 950, San Diego, CA 92101; 619-692-9001

Attorneys (If Known)

'11CV0876 AJB WVG

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
☒ 3 Federal Question (U.S. Government Not a Party)
☐ 2 U.S. Government Defendant
☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- (For Diversity Cases Only)
- | | | | | | |
|---|--------------------------------|--------------------------------|---|--------------------------------|--------------------------------|
| Citizen of This State | PTF <input type="checkbox"/> 1 | DEF <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State | PTF <input type="checkbox"/> 4 | DEF <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Eminent Domain <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input checked="" type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition		

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
☐ 2 Removed from State Court
☐ 3 Remanded from Appellate Court
☐ 4 Reinstated or Reopened
☐ 5 Transferred from another district (specify)
☐ 6 Multidistrict Litigation
☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity)

42 U.S.C. §1983

Brief description of cause:

Violation of Civil Rights

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint.

JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

04/25/2011

SIGNATURE OF ATTORNEY OF RECORD

Mary Frances Prevost

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____